

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

NOVEMBER 16, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Auditor General has conducted a study of the state and local governments implementation of the Dymally-Alatorre Bilingual Services Act. The Auditor has recommended that the Board take a more active leadership role in assisting state departments comply with the Act.
- B Board staff will provide background information on the state's outreach, recruitment and affirmative action programs to the Governor's Diversity Task Force.
- C. Armund Burrell, Chief of the Appeals Division was presented with his 25 year Certificate for his contributions and service in state government.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

- A. The State and Consumer Services Agency has appointed Allen Sumner as it's Chief Counsel. Mr. Sumner was most recently the Senior Assistant for the Government Section of the Office of the Attorney General. Agency has asked all of it's constituent departments for a briefing on pending legal issues.
- B. Peace Officer Bill of Rights Test Claim - The Commission on State Mandates will talk of the claim again at it's meeting on November 30, 1999.
- C. The CalPERS Task Force on Disability Issues is tentatively scheduled to meet on November 16, 1999.

BOARD ACTIONS

4. STATE PERSONNEL BOARD SUMMARY MINUTES OF NOVEMBER 2, 1999

ACTION: Adopted on November 16, 1999.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

5. ADMINISTRATIVE LAW JUDGE CASES

On November 16, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.

COURT REMAND

EMIL POLLAK, CASE NO. 98-0256

Appeal from demotion

Board of Equalization

ACTION: In Compliance with Court Remand, Board Decision Modified to 5-Percent Reduction in Salary for 12 Months

CHIEF COUNSEL RESOLUTION

FREDERICK GRAB, CASE NO. 99-2630

Appeal from Discrimination Complaint

Department of Justice

ACTION: Board Approved Stipulated Settlement Agreement

PROPOSED DECISIONS

MOHAMMAD BEHROOJ, CASE NO. 99-1372
Appeal from demotion
Department of Transportation
ACTION: Demotion Modified to 10-percent Reduction in Salary
for 30-days

JOHN AREIAS, CASE NO. 99-2285
Appeal from dismissal
Department of Veterans Affairs
ACTION: Dismissal Sustained

SAM XAYARATH, CASE NO. 99-1922
Appeal from 3-working days suspension
Human Services Agency, County of Merced
ACTION: Suspension Modified to Official Reprimand

THELETHA COLLINS, CASE NO. 99-2217
Appeal from dismissal
Department of Motor Vehicles
ACTION: Dismissal Sustained

EMORY T. JONES, CASE NO. 99-2282
Appeal from 30-calendar days suspension
Department of Corrections
ACTION: 30-Calendar Days Suspension Modified
to 5-Working Days Suspension

SHARON NELSON, CASE NO. 99-2526
Appeal from 2-working days suspension
Department of Mental Health
ACTION: Suspension Modified to Official Reprimand

JOHNJ R. HALL, CASE NO. 98-3351
Appeal from 10-percent reduction in Salary for 12 months
Department of the Youth Authority
ACTION: Reduction in Salary Sustained

LORITA SEATON, CASE NO. 99-0286
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Sustained

KHAIRY E. AREF, CASE NO. 99-3347
Appeal from 1-step reduction in Salary for 6 months
Department of Corrections
ACTION: Reduction in Salary Modified to Official Reprimand

GILBERT NUNEZ JR., CASE NO. 99-3177
Appeal from 1-step reduction in Salary for 6 months
Department of Corrections
ACTION: Reduction in Salary Sustained

BARRY J. DARDEN, CASE NO. 99-2789
ROBERT C. LEMIUX, CASE NO. 99-2960
JAIME MOLINA, CASE NO. 99-3011
LISA G. NORTHAM, CASE NO. 99-3114
ERNESTO PONCE, CASE NO. 99-3200
Appeals from official reprimand
ALEJANDRO SILVA, CASE NO. 99-3113
Appeal from 5-working days suspension
Department of Corrections at Imperial and San Diego
Sustaining Official Reprimand for
Appellants Darden, Lemiux, Molina and Ponce;
ACTION: 5-Working Days Suspension for Silva Sustained; and
Official Reprimand Revoked for Northam

RICK A. DAVIS, CASE NO. 99-0605
Appeal from dismissal
Department of Developmental Services
ACTION: Dismissal Sustained

AMOS NUGENT, CASE NO. 98-0608
Appeal from demotion
Board Equalization
ACTION: Demotion Sustained

DON SENNER, CASE NO. 99-0502
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Sustained

PATRICK McCAMMON, CASE NO. 99-1047
Appeal from dismissal
California Conservation Corp
ACTION: Dismissal Revoked

MARIA COLON, CASE NO. 99-2573
Appeal from medical termination
Department of Health Services
ACTION: Medical Termination Revoked

CORBEN WHITNEY, CASE NO. 99-2196
Appeal from 10-working days suspension
Department of California Highway Patrol
ACTION: Suspension Sustained

DONNA SCHOMMER, CASE NO. 99-1459
Appeal from rejection
Department of Corrections
ACTION: Rejection Affirmed and Appeal Denied

ANTONIO RAMOS, CASE NO. 99-1620
Appeal from 60-days suspension
MOISES MOYA, CASE NO. 99-1613
DEBBIE I. SIDHU, CASE NO. 99-1636
Appeals from 30-days suspension
Department of Corrections
ACTION: Suspension Modified for Appellant Ramos to 15 days;
and Suspension Revoked for Appellants Moya and Sidhu

NICHOLAS MEDRANO, CASE NO. 99-0096
Appeal from 5-percent reduction in Salary for 6 months
Department of Corrections
ACTION: Reduction in Salary Sustained

HARVEY N. BILLS, CASE NO. 99-1326
Appeal from dismissal
Department of the Youth Authority
ACTION: Dismissal Sustained

EDMUND BAPTISTA JACINTO, CASE NO. 99-2290
Appeal from official reprimand
Department of Mental Health
ACTION: Official Reprimand Sustained

JON A. DOMINGUEZ, CASE NO. 99-2988
Appeal from 5-percent reduction in Salary for 6 months
Department of the Youth Authority
ACTION: Board Adopted Findings of Fact, but Modified
Reduction in Salary to Official Reprimand

ARBITRATION

JOSE MERCADO, CASE NO. 99-3714
Appeal from 5 working days suspension
California Highway Patrol
ACTION: Suspension Modified to 4 Working Days

6. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION. (See pages 10-13)
7. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On November 16, 1999, the Board adopted the following
decisions presented by Linda Brooks, Assistant Executive
Officer, California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.
 - A. RODNEY HENDRIX, Case No. 99-1700
Classification: Correctional Officer
ACTION: GRANTED
 - B. CAROL C. SMITH, Case No. 99-1446
Classification: Youth Correctional Officer
ACTION: Did not get permission to compete in the State
civil service examination as required by State
Personnel Board Regulation 211
 - C. EDWARD G. FABELA, Case No. 99-1448
Classification: Youth Correctional Officer
ACTION: DISMISSED - Department withdrew action.
 - D. THERESA PHIFER, Case No. 99-3126
Classification: Youth Correctional Officer
ACTION: DISMISSED - No timely response to SPB request
for more information.
8. MEDICAL APPEALS
On November 16, 1999, the Board adopted the following
decisions presented by Linda Brooks, Assistant Executive
Officer, California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.
 - A. PHILLIP HUGHES, Case 99-0252
Classification: Tax Tech II
ACTION: DISMISSED
 - B. MELISSA LOPEZ, Case No. 99-0183
Classification: Youth Correctional Officer
ACTION: DENIED
 - C. BRETT RABANG, Case No. 99-0252
Classification: Youth Correctional Officer

- ACTION: DENIED
- D. JACKIE T. RATLIFF, Case No. 98-4931
Classification: Correctional Officer
ACTION: DENIED
- E. REYNALDO SAUCEDA, Case No. 99-0182
Classification: Youth Correctional Officer
ACTION: DENIED
- F. YUBI JEAN SOSO, Case No. 97-4035
Classification: Office Assistant (Typing)
ACTION: DENIED
- G. APRIL SWEITZER, Case No. 99-1490
Classification: Correctional Officer
ACTION: DENIED
- H. KURT SEUBERT, Case No. 98-4992
Classification: Youth Correctional Officer
ACTION: DENIED
- I. JUDY PLASCENCIA, Case No. 99-3651
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- J. KEVIN HOFFMAN, Case No. 99-4093
Classification: Youth Correctional Officer
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
9. NON-HEARING CALENDAR
On November 16, 1999, the Board adopted items A-C. These
items were presented by Laura Aguilera, Chief, Personnel
Resources and Innovation Division, California State Personnel
Board.
VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.
- A. CONSULTING PSYCHOLOGIST
The Department of Mental Health proposes specification
revisions to the classification of Consulting
Psychologist.
- B. ASSISTANT CHIEF, CALIFORNIA HIGHWAY PATROL (NONUNIFORM)
The Department of California Highway Patrol proposes to
establish the Assistant Chief, California Highway
Patrol (Non-uniform) classification; and adoption of a
12-month probationary period.

- C. SENIOR MOTOR VEHICLE TECHNICIAN
The Department of Motor Vehicle proposes the establishment of the new classification of Senior Motor Vehicle Technician.

10. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION

- (1) COMMUNITY HEALTH ADVISOR
The Air Resources Board proposes to allocate the above position to the CEA category. The department indicates that this position will report to the Chairman, Air Resources Board and will provide community health policy consultation, advice and assistance to the chairman and staff and will respond to community health issues.
- (2) CHIEF, BARBERING AND COSMETOLOGY PROGRAM
The Department of Consumer Affairs proposes to allocate the above position to the CEA category. The department indicates that this position will report to the Director and will formulate, implement and interpret departmental policies and procedures, and will advise the directorate on matters relating to the program.

B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR DENIED BY SPB MANAGEMENT

- (1) DIRECTOR, SECURITIES MANAGEMENT DIVISION
The State Treasurer's Office's proposal to allocate the above position to the CEA category has been approved.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. JOHN W. CONES, CASE NO. 98-3003. Appeal from dismissal. Department of Corrections. (Oral argument held September 8, 1999.)

NO ACTION

2. PAMELA A. KING, CASE NO. 98-1586. Appeal from dismissal. Department of the Youth Authority. (Oral argument held September 8, 1999.)

NO ACTION

3. ANDY G. INGERSOLL, CASE NO. 98-3517. Appeal from denial of reasonable accommodation, discrimination based on disability, and constructive medical suspension. Department of Transportation. (Oral argument held November 2, 1999.)

NO ACTION

4. DUANE WILES, CASE NO. 98-4304. Appeal from dismissal. Department of Transportation. (Oral argument held November 2, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 16, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Carpenter, Elkins, Harrigan - Aye.